

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MADELYN B. BARNES By and on Behalf
of the United States of America, Relator, and
By and on Behalf of the State of New York,

Plaintiff,

v.

HEALTHNOW NEW YORK INC., D/B/A
BLUECROSS BLUESHIELD OF WESTERN NEW
YORK, AND D/B/A BLUESHIELD OF
NORTHEASTERN NEW YORK, NOW KNOWN AS
HIGHMARK WESTERN AND NORTHEASTERN
NEW YORK INC.,

Defendant.

NOTICE OF MOTION

Civil Action No.:
1:16-cv-0088-JLS

PLEASE TAKE NOTICE that, upon the affidavit of Lisa Burke, sworn to May 25, 2021, and the affidavit of Kim King, sworn to May 24, 2021 with exhibits attached thereto, the declaration of Alan J. Bozer dated May 25, 2021 with exhibits attached thereto, and the Statement of Undisputed Facts dated May 25, 2021, Defendant HealthNow New York Inc., moves this Court for a judgment:

1. Denying dismissing the Second Amended Complaint in its entirety; or
2. Alternatively, dismissing
 - A. Claims concerning the FEP, Medicare and Medicaid; and
 - B. Supplemental state law claims made on behalf of the State of New York or for named or unnamed local governments; and
3. Granting such other and further relief as the Court deems just and proper.

Defendant looks to the Court to set a briefing schedule for all responses and replies as per its rules.

Defendant requests oral argument.

Dated: Buffalo, New York
May 25, 2021

PHILLIPS LYTTLE LLP

By: Alan J. Bozer

Alan J. Bozer

Erin C. Borek

William P. Keefer

Attorneys for Defendant

HealthNow New York Inc., d/b/a BlueCross

BlueShield of Western New York, and

d/b/a BlueShield of Northeastern New York,

now known as Highmark Western And

Northeastern New York Inc.

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